

Case 1:11-cv-00182-HSM-WBC Document 12 Filed 03/19/12 Page 1 of 4 PageID #: 48

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA and
THE STATE OF TENNESSEE, *ex rel.*
DENNIS DODSON,

Plaintiffs/Relator,

v.

A.I.M. CENTER, INC.,

Defendant.

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No. 1:11-cv-182

Mattice / Lee

FILED UNDER SEAL

ORDER

Before the Court is the *ex parte* motion of the United States of America and the State of Tennessee (collectively “Movants”) for an extension of time in which to determine whether to intervene in this *qui tam* action under the federal False Claims Act (“FCA”) and the Tennessee Medicaid False Claims Act (“Tennessee Act”) [Doc. 9]. This is the second extension of time requested in this matter, which was originally filed in July 2011. Movants seek an extension of five months during which to continue evaluating the claims. *See* 31 U.S.C. § 3730(b)(3); Tenn. Code Ann. § 71-5-183(b)(3). Movants also seek a partial lifting of the seal, such that they may provide the Complaint to Defendant and disclose the allegations therein. Movants represent that the Relator does not oppose the extension or the request to partially lift the seal.

An extension of time may be granted under the FCA or the Tennessee Act only for “good

cause” shown. 31 U.S.C. § 3730(b)(3); Tenn. Code Ann. § 71-5-183(b)(3); *United States ex rel Dahlman v. Emergency Physicians Prof’l Ass’n*, No. Civ.02-590, 2004 WL 287559, at *1 (D. Minn. Jan. 5, 2004). This “good cause” requirement is “a substantive one, which the government can only satisfy by stating a convincing rationale for continuing the seal.” *United States ex rel Costa v. Baker & Taylor, Inc.*, 955 F. Supp. 1188, 1190 (N.D. Cal. 1997). “Good cause” is not established “merely upon a showing that the [g]overnment was overburdened and had not had a chance to address the complaint.” *Id.* However, “a pending investigation of the allegations contained in the *qui tam* complaint will often establish ‘good cause’ for staying the civil action.” *Id.*

To support the motion, Movants offer the declaration of Mary Elizabeth McCullohs (“McCullohs”), the Special Assistant United States Attorney acting as lead attorney in this case [Doc. 11]. McCullohs states that the United States Department of Health and Human Services, Office of Inspector General and the Tennessee Bureau of Investigation (“TBI”) have been reviewing disclosures from Relator as well as documentation from TennCare/Medicaid. The Defendant responded to a TBI subpoena in December and produced over 16,000 pages of documents, but during the review of this documentation it was discovered that information was missing, which was then requested from Defendant. Defendant was expected to provide the additional information the week of March 5, 2012, but it was unknown at the time of the declaration how extensive the documentation would be. In the memorandum in support of the motion [Doc. 10], Movants state that they may find it useful to provide Defendant with information about the allegations in Relator’s Complaint because it may narrow the issues that need to be investigated and speed the investigation and/or resolution of this matter.

Based on McCullohs’ declaration and the memorandum in support, I **FIND** Movants have

shown good cause for the extension. Accordingly, the motion for an extension of time and for partial lifting of the seal [Doc. 9] is **GRANTED**. Movants shall intervene or decline this action by **August 9, 2012**. In addition, the seal on the case is **PARTIALLY LIFTED** for the limited purposes described by the Movants in their motion. The seal remains in effect for all other filings in this matter and for all other purposes pending further order by this Court.

SO ORDERED.

ENTER:

s/ Susan K. Lee
SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE